UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/656,783 | 09/05/2003 | John C. Goodwin III | 11328.00 | 8959 |

26884 7590 07/12/2006

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

| EXAMINER | |
|---|---|
| NGUYEN, KIMBERLY D | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2876 | |

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/656,783 | GOODWIN, JOHN C. | |
| | Examiner | Art Unit | |
| | Kimberly D. Nguyen | 2876 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *24 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *9-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Amendment/Reply*

1. Acknowledgement is made of Reply filed April 24, 2006.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. For example, the claimed limitations (as set forth in independent claims):

> "if no item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a bad read indicator to produce a single bad read indication by the checkout device; and
>
> if item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a good read indicator to produce a single good read indication by the checkout device."

which are not supported by the specification. Contrary to the claimed limitations as set forth above, many parts of the specification state that the control circuitry indicates a single bad

read indication if the control circuitry fails to receive item information from *at least one* of the barcode label and the radio frequency identification label, and indicates a good read indication if the control circuitry receives item information from *at least one* of the barcode label and the radio frequency identification label. For example, on lines 18-27 of page 2:

"The control circuitry activates a bad read indicator to indicate a single bad read indication if the control circuitry fails to receive item identification information from *at least one* of the barcode label and the radio frequency identification label, and activates a good read indicator to indicate a single good read indication if the control circuitry receives item identification information from *at least one* of the barcode label and the radio frequency identification label." Or on lines 8-13 of page 7:

"Indicator 37 includes a light assembly 70 or tone generator 72, or combination of both. Light assembly 70 may include a green light indicating that RFID label 14 *or* barcode label 28 has been successfully read and a red light indicating a failure of *any* label to be read. Tone generator 72 may produce a first tone for a successful reading and a second tone for a failure to read *any* label."

Accordingly, the claim(s) contains subject matter which was not described/supported in the specification.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-13 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds et al. (US 6,286,762; hereinafter "Reynolds").

Re claim 9: Reynolds teaches a method of notifying an operator of a result of attempting to read a number of product labels (12, 12a, 12b, 24a, 24b in fig. 1) on an item (14) comprising the steps of:

a) attempting to read a barcode label (24a, 24b; col. 17, lines 25-28) and a radio frequency identification label (12A, 12B; col. 3, lines 45-55) by a checkout device (10);

b) if no item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a bad read indicator to produce a single bad read indication by the checkout device (red LEDS 84, 86 for unsuccessful or incomplete reading operation, such as red LED 84 indicates a single bad reading of RFID tag and red LED 86 indicates a single bad reading of machine readable code, such as bar codes, stacked codes, etc., see col. 6, lines 65+; col. 7, lines 41+; and figure 3. That is, red LEDs (84 and 86) are activated/illuminated if both the RFID tag and the barcode label are unsuccessfully read); and

c) if item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a good read indicator to produce a single good read indication by the checkout device (green LEDs 76, 78 for successful reading operation, such as green LED 76 indicates a single good reading of RFID tag and green LED 78 indicates a single good reading of machine read code, see col. 6, lines 65+; col. 7, lines 41+; and figure 3. That is, green LEDs (76 and 78) are activated/illuminated if both the RFID tag and the barcode label are successfully read.).

Re claim 10: Reynolds teaches the step of activating a bad read light indicator to produce a single bad read indication (i.e., illuminating red LED 84, 86 in response to a unsuccessful or incomplete read operation of the RFID tag 12a, 12b and/or bar code 24a, 24b; see col. 6, lines 65+; col. 7, lines 58+; and figures 2-3).

Re claims 11 and 13: the checkout device 10 further includes an audio indicator 64 for audibly indicating bad read operation (see col. 13, lines 43+; and figure 2).

Re claim 12: Reynolds teaches the step of activating a good read light indicator to produce a single good read indication (i.e., illuminating green LED 76, 78 in response to a successful read of the RFID tag 12a, 12: or bar code 24a, 24b) (see col. 6, lines 65+; col. 7, lines 55+; and figures 2-3.)

Re claims 15-16: Reynolds teaches a system for notifying an operator of a result of attempting to read a number of product labels on an item comprising:

a barcode reader (32);

a radio frequency identification label reader (30);

a good read indicator (green LEDs 76, 78 for successful reading operation, such as green LED 76 indicates a single good reading of RFID tag and green LED 78 indicates a single good reading of machine read code, see col. 6, lines 65+; col. 7, lines 41+; and figure 3);

a bad read indicator (red LEDS 84, 86 for unsuccessful or incomplete reading operation, such as red LED 84 indicates a single bad reading of RFID tag and red LED 86 indicates a single bad reading of machine readable code, such as bar codes, stacked codes, etc., see col. 6, lines 65+; col. 7, lines 41+; and figure 3); and

control circuitry for notifying an operator of a result of attempting to read a barcode label and a radio frequency identification label on an item with the barcode reader and the radio frequency identification label reader (i.e., flashing yellow LEDs, such as LED 80 for RFID tag and flashing yellow LED 82 for bar code, see col. 7, lines 41+ and figure 2),

wherein the control circuitry activates a bad read indicator to produce a single bad read indication if the control circuitry fails to receive item identification information from both the barcode label and the radio frequency identification label (see col. 6, lines 65+; col. 7, lines 55+; and figures 2-3.), and

wherein the control circuitry activates a good read indicator to produce a single good read indication if the control circuitry receives items identification information from both the barcode label and the radio frequency identification label (see col. 6, lines 65+; col. 7, lines 55+; and figures 2-3.).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds in view of Minasy et al. (US 5,121,103; hereinafter "Minasy").

Reynolds teaches a method of notifying an operator of a result of attempting to read a number of product labels (12, 12a, 12b, 24a, 24b in fig. 1) on an item (14) comprising the steps of:

b) attempting to read a barcode label (24a, 24b; col. 17, lines 25-28) and a radio frequency identification label (12A, 12B; col. 3, lines 45-55) by a checkout device (10);

c) if no item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a bad read indicator to produce a single bad read indication by the checkout device (red LEDS 84, 86 for unsuccessful or incomplete reading operation, such as red LED 84 indicates a single bad reading of RFID tag and red LED 86 indicates a single bad reading of machine readable code, such as bar codes, stacked codes, etc., see col. 6, lines 65+; col. 7, lines 41+; and figure 3); and

d) if item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a good read indicator to produce a single good read indication by the checkout device (green LEDs 76, 78 for successful reading operation, such as green LED 76 indicates a single good reading of RFID tag and green LED 78 indicates a single good reading of machine read code, see col. 6, lines 65+; col. 7, lines 41+; and figure 3).

Reynolds fails to teach or fairly suggest the step of receiving an indication that the item has passed over by a checkout device.

Minasy teaches a checkout device 14, 16 having an antenna 34 mounted in or adjacent to the counter 20 of the cash register 24 to alert the clerk when the system has detected the passage of checkout item (see col. 5, lines 60+; and figure 1).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the checkout device having an antenna that detects the

passage of checkout item in the checkout device of Reynolds in order to ensure the reading operation of all product items that passed over the checkout device.

***Response to Arguments***

8. Applicant's arguments filed April 24, 2006 (page 5+) have been fully considered but they are not persuasive. Reynolds teaches red LEDs (84, 86) for unsuccessful or incomplete reading operation, such as red LED 84 indicates a single bad reading of RFID tag and red LED 86 indicates a single bad reading of machine readable code, such as bar codes, stacked codes, etc. That is, red LEDs (84 and 86) are activated/illuminated if both the RFID tag and the barcode label are unsuccessfully read, which meets the limitation "if no item identification information is received from *both* the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a bad read indicator to produce a single bad read indication by the checkout device." Reynolds also teaches green LEDs (76 and 78) for successful reading operation, such as green LED 76 indicates a single good reading of RFID tag and green LED 78 indicates a single good reading of machine read code. That is, LEDs (76 and 78) are activated if both the RFID tag and the barcode label are successfully read, which meets the limitation "if item identification information is received from both the barcode label and the radio frequency identification label by the checkout device in response to the attempting step, activating a good read indicator to produce a single good read indication by the checkout device." Accordingly, given its broadest reasonable interpretation, the examiner respectfully believes that Reynolds and Minasy meet the claimed invention.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KDN
June 22, 2006